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Letter dated 31 July 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 3 May 2002 (S/2002/527).

The Counter-Terrorism Committee has received the attached supplementary report from the Sudan, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 25 July 2002 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to enclose herewith the report prepared by the Government of the Republic of the Sudan in response to the points raised in your letter of 1 May 2002 (see enclosure).

Your attention is drawn to the annexes of the report, which contain information classified as confidential. I should therefore like to request that the distribution of the annexes be restricted to the members of the Counter-Terrorism Committee alone.

(*Signed*) Omer Bashir Mohamed **Manis**
Chargé d'affaires a.i.

Enclosure

[Original: Arabic]

Reply of the Government of the Sudan to the questions raised by the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism in its letter dated 1 May 2002*

I. Subparagraphs 1 (a) and (b)

1. Steps taken to ratify the International Convention for the Suppression of the Financing of Terrorism and the International Convention against Transnational Organized Crime

(a) Ratification of the International Convention for the Suppression of the Financing of Terrorism:

The competent authorities have begun the legislative procedures for ratification. At the same time, the Government of the Sudan confirms the obligations it assumed in signing the Convention, in accordance with the provisions of the Vienna Convention on the Law of Treaties.

(b) Ratification of the International Convention against Transnational Organized Crime:

The Ministry of Justice has begun the legislative procedures for ratification. The Government of the Sudan confirms the obligations it assumed in signing the Convention, in accordance with the provisions of the Vienna Convention on the Law of Treaties.

2. Legislation necessary to give effect to those Conventions, in particular in relation to the financing of terrorism

A bulletin on money-laundering was issued on 20 May 2002 (see annex), and a draft law intended to counter money-laundering and prohibit the involvement of banks in suspicious activities of any kind is currently being prepared.

3. Provisions of the Banking Regulation Act relevant to the suppression of the financing of terrorism

- Article 7 (3) authorizes the Central Bank to carry out the necessary investigations of foreign financial corporations and banks wishing to register in order to operate in the Sudan.
- Article 8 authorizes the Central Bank to supervise and monitor banks and other financial institutions.
- Article 10 authorizes the Central Bank to examine the books and records of any person it believes to be engaged in a banking operation any part of which is in contravention of the law.

* The annexes are on file with the Secretariat and are available for consultation.

- Article 11 authorizes the Central Bank to withdraw any licence held by a bank if that bank violates the provisions of the Act, or of any regulations and orders issued thereunder, or if it is convicted under any other law (such as the Counter-Terrorism Act).
- Article 18 provides that a bank may participate in a corporation or establishment registered outside the Sudan or in a bank outside the Sudan only with the approval of the Central Bank.
- Article 29 authorizes the Central Bank to seek the information, data or documentation it requires in the manner at the time it may determine.
- Article 31 authorizes the Central Bank to inspect all banks registered in the country whenever it may deem it appropriate to do so.
- Article 36 grants the Central Bank general authority to monitor banking operations.
- Article 50 establishes the penalties to be imposed for contraventions of the Act (for text of the Act, see annex).

II. Subparagraphs 1 (c) and (d)

1. What legal provisions exist for the freezing of funds that are kept in the Sudan by persons and entities outside the Sudan?

The Counter-Terrorism Act, 2000, grants the courts the right, in implementing the Act or any other law, to freeze or confiscate any funds that are determined to be linked to terrorism (article 18). The Act is also applicable to all persons charged with committing, attempting to commit or incitement to commit a terrorist offence outside the Sudan if the terrorist act in question is punishable in the Sudan and in the country where it is committed (article 3 (d)). Article 18 of the Act further gives Sudanese courts the right to confiscate any realty, funds, equipment, weapons, means of transportation or other items determined to have been used in the commission, attempted commission or facilitation of the commission of terrorist offences; to confiscate any funds, realty, equipment or financial assets owned by a person charged with committing a terrorist offence or with the incitement, promotion or encouragement, in word or deed, of a terrorist offence; and to deprive such a person of the benefit or use of any other resources or funds whether in the Sudan or elsewhere.

2. What legal provisions exist for the freezing of funds held in branches of foreign banks in the Sudan?

Article 31 (2) of the Banking Regulation Act grants the Central Bank the right to inspect, whenever it deems it appropriate to do so, any domestic or foreign entity that conducts all or part of its banking operations in the Sudan. The Act entitles the courts to obtain, in implementing the Counter-Terrorism Act, any information from any banking agency in the country. The Act gives them the right to freeze and confiscate funds that are determined to be linked to terrorist activities or whose owner is determined to be so linked.

3. **Do these provisions permit freezing during the period of investigation and legal proceedings?**

Yes. This is permitted under article 18 of the Counter-Terrorism Act, 2000.

4. **What reporting obligations apply to financial intermediaries such as lawyers concerning financial transactions with terrorist or other criminal aims?**

In general, the law protects professional confidentiality. It makes exceptions, however, where the party concerned gives its approval or where the information obtained relates to the commission of a crime (article 27 of the Evidence Act, 1993). Article 3 (1) of the Legal Representation Act, 1983, provides that an attorney may not disclose secrets entrusted to him by a client or facts and information learned in the practice of his profession, even when no longer acting in the capacity of attorney, unless they were conveyed to him with the intention of committing a crime. It has long been established in Sudanese jurisprudence that the protection of professional secrets is a privilege that is limited to the provision of legal counsel and is not applicable where the objective is to commit a crime.

5. **What controls exist to ensure that charitable and other funds are not transferred for the financing of terrorism?**

There are procedures to ensure that charitable associations are sound and that they do not deviate from the objectives set forth in the founding statutes in accordance with which they were allowed to register and operate.

Monitoring is done by the Commission for Humanitarian Aid, which registers the associations, and by the Sudan Council of Voluntary Agencies (SCOVA), to which they belong. There are also the Central Bank controls for which provision is made in the Banking Regulation Act and in the anti-money-laundering bulletin, the controls on the opening and management of convertible currency accounts, and bulletin 99/15 of the foreign currency department at the Bank of the Sudan concerning rules and controls for the opening and management of current accounts (see annex). There is a also a package of security procedures that precede the start-up of such organizations and govern all funds used for charitable work.

6. **What controls are available to regulate alternative funds transfer arrangements such as the system known as Hawala?**

The Central Bank has instructed banks that, for wire transfers, the information required must include the name and address of the client, etc. The competent security and economic agencies constantly examine and monitor foreign sources of funding entering the country.

III. Subparagraph 2 (a)

1. **What controls are there to prevent entities and individuals from collecting funds and other forms of support for terrorist activities to be carried out inside or outside the Sudan? This includes, in particular:**

(a) Recruitment and collection of funds from other countries;

Sudanese laws prohibit this, specifically the Counter-Terrorism Act, 2000, and it is one of the tasks of the competent security agencies to prevent it. The Central Bank's controls, as well as the anti-money-laundering bulletin and the procedures it elaborates, monitor and prevent such practices.

(b) Recruitment or collection of funds on legal grounds for illegal purposes.

The Counter-Terrorism Act prohibits such criminal conduct, and the relevant security agencies in the country monitor activities and conduct of this kind and endeavour to prevent them. The security agencies have found no evidence of this happening inside the country, although it is not possible to be completely sure about what might be happening outside the country.

IV. Subparagraph 2 (b)

1. Does the Sudan have a body specialized in counter-terrorism, or is this the responsibility of a number of State agencies? How is coordination between them effected?

Measures have been initiated for the establishment of a counter-terrorism unit in the Ministry of the Interior, and the decree on its formation has already been issued. A decree has also been issued establishing a unit at the Central Bank to monitor money-laundering and suspicious funds.

There are other units in the various security agencies, and they coordinate their actions and exchange information. There is also a coordinating committee to monitor counter-terrorism and ascertain that the resolutions adopted by the Security Council in this regard are implemented. It consists of the relevant State agencies, and it effects the necessary coordination among them. Each agency also has a smaller committee that has the task of implementing the recommendations of the coordinating committee in this domain.

There is, moreover, the National Security Council, which is chaired by the President of the Republic and includes representatives of all the State agencies concerned. Its principal functions include the monitoring and implementation of counter-terrorism policies by the State.

2. Does each State agency define its strategy independently or does it carry out higher policies?

The various State agencies are bound by the higher policies established by the State, as represented by the Presidency of the Republic, the Council of Ministers and the National Security Council. For executive strategies, there is latitude for discretion on the part of these agencies by virtue of their specialized technical character, provided that they exercise this within the framework of the global policies. Coordination is also effected, as we have stated, in the context of the membership of these agencies in the higher bodies, such as the Council of Ministers and the National Security Council, that adopt the higher policies. There is thus no possibility of these agencies deviating from the policies of the State. The distribution of tasks among State agencies is decided by the Presidency of the Republic and the Council of Ministers.

V. Subparagraph 2 (e)

What is the competence of the courts of the Sudan to deal with a criminal act committed outside the Sudan by a foreign national who is currently in the Sudan when the country where the act was committed is not a country with which the Sudan has extradition arrangements?

The courts of the Sudan have jurisdiction in accordance with the Counter-Terrorism Act, 2000. Article 3 (d) of the Act, entitled "Application", provides that it is applicable to all persons charged with committing, attempting to commit or incitement to commit a terrorist offence outside the Sudan if the terrorist act in question is punishable under the Act or any other law in force in the Sudan, is also punishable in the country where it was committed, and the State where the act took place has agreed to apply the provisions of the Act. Article 3 (e) provides for its application even if the act (the terrorist offence) is not prejudicial to the interests of the Sudan or its national security except if it is decided to extradite the offender, in accordance with the provisions of the Extradition of Offenders Act, to any State that signs an agreement on cooperation in the field of terrorism that is ratified in accordance with the Sudanese Constitution. Article 149 (e) of the Sudan Civil Aviation Act, 1999, provides that criminal courts in the Sudan are legally competent to try persons charged with committing offences against the safety of aviation and with the illegal seizure of aircraft. The Extradition and Return of Offenders and Wanted Persons Act, 2000, provides that in the event there is no agreement between the Sudan and the State seeking extradition, the principle of reciprocity is observed and the competent authority may proceed with extradition. The same Act provides that should the provisions of any agreement for the extradition of offenders or judicial cooperation to which the Sudan is a party be in conflict with the provisions of the Act itself, the provisions of the agreement in question shall prevail insofar as they eliminate the conflict between them.

VI. Subparagraph 2 (g)

1. The new passport

The Ministry of the Interior has completed the procedures for the issuance of the new passport. A specialist foreign company has been designated to produce a passport that is highly resistant to forgery, and it is expected to be issued during the current financial year, namely before the end of 2002.

2. Border controls

The relevant security agencies, headed by the Ministry of the Interior, are enhancing the protection and monitoring of the borders. This year, the joint boundary commissions with neighbouring States have been active. Efforts are also continuing to reinforce and improve the forces that secure the borders and man the monitoring posts. Reference should also be made to the fact that the Sudan shares extensive borders with nine other countries and also has a Red Sea coast. This naturally requires enormous human, material and technical resources that demand high expenditures in a situation of limited resources.

VII. Subparagraphs 3 (c) and (d)

1. **What steps has the Sudan taken to accede to the instruments to which it is not yet a party?**

The Sudan is currently in the process of acceding to:

- The International Convention for the Suppression of the Financing of Terrorism;
- The Convention of the Organization of the Islamic Conference on Combating International Terrorism;
- The Organization of African Unity Convention on the Prevention and Combating of Terrorism;
- The United Nations Convention against Transnational Organized Crime.

When it has completed the procedures for accession to these instruments, the Sudan will be a party to all the international and regional counter-terrorism instruments.

2. **What steps has the Sudan taken to enact national/domestic legislation to implement the international instruments to which it has become a party?**

The Sudan is now completing the preparation of an anti-money-laundering law in order to bring its national legislation fully into line with the relevant international agreements. In the meantime, the Central Bank has issued a supplementary anti-money-laundering bulletin to be applied by Sudanese banks until such time as the new law is enacted. The Sudan has also promulgated the Extradition of Offenders Act, 2000, in order to amend the previous law so as to meet its international obligations and ensure the implementation of the international judicial cooperation and extradition agreements to which it is a party.

3. **What steps has the Sudan taken for a general review of relevant legislation with a view to revising it and to coping with the rapid changes taking place in the nature of international terrorism?**

As we have said, the Sudan has enacted a new Extradition of Offenders Act, 2000, and has issued an anti-money-laundering bulletin pending to the enactment of a law in that regard. In addition, the Ministry of Justice has formed a committee to review the laws, including the Penal Code and its procedures, money-laundering, etc. (The decree establishing the committee is annexed hereto.) The work of this committee, which has already begun to function and is chaired by a former chief judge, will include the revision of the relevant legislation and its alignment with the international instruments to which the Sudan is a party, including the instruments relating to international terrorism.

VIII. Subparagraph 3 (e)

Have the crimes set forth in the relevant international conventions been included as extraditable offences in bilateral treaties?

The Sudan has not concluded any new bilateral treaties on the extradition of offenders since it acceded to the relevant international instruments. A generally positive answer can nevertheless be given.

The Counter-Terrorism Act, 2000, and the Extradition of Offenders Act, 2000, both provide explicitly for the application of the international instruments to cases of extradition, just as the latter provides, in its article 9 (1), that terrorist crimes are to be considered extraditable offences.

IX. Paragraph 4

Has the Sudan taken any steps relating to paragraph 4 of resolution 1373 (2001) (which concerns the connection between international terrorism and organized crime, the traffic in illicit drugs, money-laundering, illegal arms trafficking and the illegal movement of nuclear, chemical and biological materials and the need to enhance coordination of efforts)?

The country's competent judicial authorities are currently considering procedures for accession to the United Nations Convention against Transnational Organized Crime. The Sudan is also endeavouring, with the other Arab States, to elaborate an Arab convention against transnational organized crime. The narcotics unit of the Sudanese Ministry of the Interior is making sustained efforts to combat drugs in the country in close cooperation with the relevant international organizations, such as the United Nations and ICPO-Interpol.

The Central Bank has issued a bulletin to the country's banking system in order to counter money-laundering pending the enactment of an anti-money-laundering law that is now in preparation.

Sudanese law prohibits and criminalizes trading in arms other than through licensed outlets and without the necessary permits from the Ministry of the Interior.

The illegal movement of materials for weapons of mass destruction (nuclear, chemical or biological) is forbidden by law, and the State agencies concerned maintain close monitoring in order to prevent any related practices. The Sudan is a party to both the Treaty on the Non-Proliferation of Nuclear Weapons and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction.

In another respect, the Sudan continues to be committed to subregional, regional and international cooperation in the fields indicated above. At the subregional level and through the Intergovernmental Authority on Development (IGAD), it is endeavouring to foster a strategy for cooperation among the countries of the Horn of Africa in combating terrorism and it has remained active in the framework of the Organization of African Unity and its early-warning system in advocating a policy of collective cooperation for the suppression of terrorism. The Sudan is also actively fostering a collective anti-drug policy in the countries of East

Africa and promoting the conclusion of a regional convention on the extradition of offenders and fugitives in the East Africa region.

The Sudan also plays an active role in the context of the Organization of the Islamic Conference in fostering a unified strategy for cooperation in countering international terrorism and in the United Nations Ad Hoc Committee on a comprehensive convention on international terrorism.

X. Organizational chart

An organizational chart showing the various State agencies active in the counter-terrorism field is attached.